

THE
A W A R D,
O R D E R,
A N D
J U D G M E N T,
O F

NICHOLAS HYDE, Esq.

In the YEAR 1619,

RESPECTING THE

Town Commons

BELONGING TO THE

F R E E M E N

O F T H E

C I T Y of B A T H.

GYE, PRINTER.

A. W. A. R. D.
O. R. D. E. R.

J. D. C. M. E. N.

J. D. C. M. E. N.

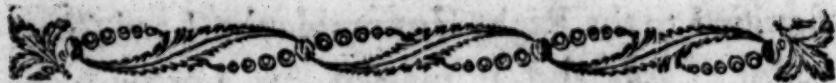
T. O. W. N. C. O. M. M. I. S. S. I. O. N. S.

F. R. E. E. M. A. S. O. N. S.

O. F. T. H. E.

C. I. T. Y. O. F. B. A. T. H.





The Award, Order, and Judgment of me, Nicholas Hyde, Esquire, Recorder of the City of Bath, in the County of Somerset, had and made the Fifth Day of June, in the Seventeenth Year of the Reign of our Sovereign Lord King James of England, France and Ireland, And of Scotland, the two and fiftieth, Between William Snigge, Esquire, of the one Part, And William Sherston and other Citizens of Bath of the other Part as followeth.

WHEREAS by the mutual assent of the Mayor, Aldermen and Citizens of Bath, in the County of Somerset, And of William Snigge, Esq. Owner and Proprietor of the Grange and Farm of Barton, near Bath aforesaid, the Matters in Variance between them touching the right of Common claimed by the said Citizens in the said Grange of Barton, were referred to the arbitrable hearing and final ending of me the said Nicholas Hyde, which said mutual assent and Agreement being
signified

signified to the Right Honorable the Lord Chancellor of England, it pleased his Lordship by an Order made in the High Court of Chancery, to give Authority to me the said Nicholas Hyde, to hear and end the said Differences, and to set down what Common the said Citizens should enjoy in the said Grange of Barton, or what Recompence should be made unto them for their pretended Common, And that a Commission should be awarded to me the said Nicholas Hyde, to give authority as aforesaid, as by the said Order, dated the Eighth Day of February last past appeareth, According to which said Order a Commission was awarded accordingly, bearing Date the Nineteenth Day of February last past, By Virtue of which said Reference, Order and Commission, I the said Nicholas Hyde took upon me the Charge and Burden of the said Business, and repaired to Bath to hear and end the said Business upon Tuesday the Eighteenth Day of May, in the Year of our Lord God, One Thousand Six Hundred and Nineteen, having formerly given warning to the Parties of both Sides, three Weeks before, to attend at the Day and Place aforesaid to inform or produce Evidence on their own Behalf severally, what they could or should think fit, At which said Eighteenth Day of May, I the said Nicholas Hyde having
viewed

viewed the said Grange and heard the said Parties and having conferred with them both Together and severally apart touching the State of the said Matter, I find the State of the Cause to stand thus, **THE CITIZENS** of Bath do challenge Common of Pasture in the Grange or Farm of Barton in this manner, **THEY** pretend that every Burghers of the City that is Free and inhabiteth in Bath may put their Cattle into Kingsmead Parcel of the said Grange, upon Lammas Day, there to feed until the Farmer putteth his Cattle into the arable Field of Barton, **AND** when the Farmer of Barton putteth his Cattle into the Field then the Citizens are to put their Cattle into the Field, there to remain till the Field be sown again: And in the enclosed Grounds of the Grange the Citizens are to put in their Cattle three Weeks after the Farmer hath put in his Cattle, And the Citizens may again put in their Cattle into Kingsmead upon St. Crispin's Day, there to remain till St. Andrew's Day, And for Proof of such Title of Common they shew forth an antient Deed, dated in the Year of our Lord God, One Thousand Two Hundred and Three Score, mentioning an Agreement what kind of Common the Citizens ought to have in the said Farm, being then the Inheritance of the Prior of Bath, wherein such Common as the

Citizens

Citizens now Challenge, is mentioned to belong unto them, paying several Duties (That is to say) the Citizens should pay for every Beast going in Kingsmead at Lammas having a tooth a penny and having no tooth a half-penny, And for the Cattle going in the arable Fields, for every beast having a tooth three half pence and not having a tooth one half penny, And for every Beast going in the enclosed Ground having a tooth a penny and no tooth a half penny. THEY also shewed a Deed Dated in the Nineteenth Year of Edward the third, whereby the Priory and Convent of Bath do declare that whereas they have ploughed up one of their enclosed Grounds called the Hayes, that the ploughing thereof should not be prejudicial to the Citizens of Bath, touching their Right and custom of commoning, AND concerning the usage of this Common, THEY shew Depositions of divers witnesses taken in this Court, in a Suit concerning this Title of Common between Sir George Snigge, Knight, one of the late Barons of the Exchequer, Father of the said William Snigge, Plaintiff against the said William Sherston and five other particular Citizens of Bath, Defendants in which said Suit the Usage of Common in the Stubble Field by the said Citizens was proved by many Witnesses for all the Time of their remembrance for the most Part being
three

three score Years until the said Sir George Snigge, entered into the Farm, And the Common in Kingsmead at Crispin's Day, was not only proved by Witneses, But also confessed by the said Sir George Snigge, in his own Bill of Complaint, and ever at this Time enjoyed, And for the Residue of the Commons by them claimed they proved no enjoying thereof, But shewed forth a Lease made by the Mayor and Commonality of Bath, in the Twelfth Year of Queen Elizabeth, to Peter Beaushin, Gent. then Farmer of the said Grange (who had an Estate therein for his Life, and one and twenty Years after) whereby all the Commons pertaining to the said City were granted to the said Peter Beaushin for his Life and one and twenty Years after (except the Commons in the arable Fields, and Kingsmead, at St. Crispin's Day, at a Rent of Forty Shillings a Year, which Rent was always paid by Peter Beaushin, during his Life, and by his Executors after his Death, for the one and twenty Years, as appeared by several Accounts and divers Witneses, which said Suit coming to a hearing before the Lord Elmeare, Lord Chancellor of England, his Lordship thought it fit to be ended in an arbitrable Course, and referred the Considerations thereof to two of the Judges by him nominated, to be ended in an arbitrable Course, but the Citizens
 refused

refused to assent to an arbitrable End thereof,
 neither did they attend the said Judges about
 the same, whereupon the said Judges, being
 required by the said Lord Chancellor to signify
 their Opinions in the said Matter, certified his
 Lordship that they thought it a fit End between
 the said Parties that the then Defendants should
 make a Lease for Two Hundred Years of all
 their pretended Commons in the said Grange,
 for Five Pounds a Year Rent to the then Com-
 plainant, Or of all except that in Kingsmead, at
 St. Crispin's Day, for Five Marks a Year
 Rent which said Certificate for Want of Cause
 shewn to the contrary by the then Defendants,
 was at Length, by his Lordship decreed, since
 which Time no Lease being made according to
 the said Decree, the said Sir George Snigge died
 seized in Fee of the said Grange, and the same
 descended to the said William Snigge, as Son
 and Heir to the said Sir George, since the Death
 of which said Sir George Snigge, the Citizens of
 Bath having put in their Cattle into the arable
 Fields to use their Common; an Attachment
 was granted against them by the Right Honor-
 able the Lord Chancellor, that now is at the
 Suit of the said William Snigge, for Breach of
 the said Decree; who being examined upon In-
 terrogatories, his Lordship was pleased to refer
 the Consideration of the said Examinations to
 Mr.

Mr. Theloall, one of the Masters of the said Court, to the End he might make Report whether the said Citizens had broken the said Decree or not ; who made Certificate to his Lordship, that the said Decree was not broken by the Defendants, nor any of them, for though some of them knowing of the Decree had used Common, yet they being other Citizens, and not those who were Parties to the Suit, were not bound by the Decree ; Also the Decree barreth not using of Common, it enjoining only the then Defendants to make a Lease, and not restraining them to use their Common, upon Consideration whereof it pleased his Lordship to discharge the said Parties so attached, from any Contempt laid to their Charge, out of all which Matters I am satisfied in my Opinion that the said Citizens ought to have and enjoy such Common as they claim in the said Grange of Barton, BUT for as much as no Evidence is produced to prove the Use of the Common in Kingsmead, at Lammas, nor in the enclosed Grounds, though I conceive the Reason thereof to be because the same hath been in Lease to the Tenant of the Grange, since the Twelfth Year of Queen Elizabeth, for which a Rent hath ever been paid, neither is it proved that the Sums of Money mentioned in the antient Deed to be due by the Commoners were ever paid ;
And

And I well perceive that if the Commons claimed by the Citizens should be by them enjoyed it would much more prejudice the Farmer of Barton, than advantage the Citizens. AND THEREFORE, I am of Opinion that it is a fitter Course, and more for the Benefit of the said William Snigge, that a certain Portion of the Farm Ground should be allotted to the Citizens to use for their best Profit, And the said William Snigge, and his Heirs to enjoy the Residue thereof in Severalty discharged of Common, And I am also persuaded that a convenient Parcel of the Farm Ground lying near the said City being orderly used and well husbanded may turn the Burgessees of the said City to better Profit than a snatching and uncertain Common, subject to Suits and Troubles is like to do, THEREFORE, I, THE SAID Nicholas Hyde, do Order, award, and adjudge in Manner and Form following (that is to say) That the Mayor, Aldermen and Citizens of the said City of Bath, and their Successors shall for ever hereafter, instead and for Recompence of and for their Commons so claimed, have, hold, and enjoy, to their own Use, all those Parcels of Land, parcel or reputed to be parcel of the said Grange of Barton called or known by the Name of West Furlong or the West Field heretofore lying in one great Field, but now
divided

divided into five several Closes, whereof one of them is in the Tenure or Occupation of Robert Chambers, Gentleman, and containeth by Estimation, Five Acres, three other of the said Closes are or late were in the Occupation of one Thomas Fisher of Weston, Yeoman and to him demis'd by Sir George Snigge, deceased, for certain Years yet enduring at the yearly Rent of Fourteen Pounds Fourteen Shillings and a Couple of Capons, and containeth by Estimation Forty Four Acres, and the Fifth of the said Closes is or late was in the Possession of one Edward Shepherd, for divers Years, yet enduring, at the yearly Rent of Nine Pounds Five Shillings and Eight Pence and a Couple of Capons and containeth by Estimation Forty Two Acres, And the said West Field or West Furlong containing the said Five Closes, is bounded as followeth (that is to say) with the Highway leading from Bath to Bristol on the South, the Way leading from Bath to Weston on the West, the common Field of Walcot on the North, and Kingsmead Furlong lying on the East Side of Part thereof, and the several Grounds of the Tenants of Walcot on the East Side of the other Part thereof, the said Mayor, Aldermen, and Citizens of Bath, paying out of the same yearly, Forty Shillings to the said William Snigge and his Heirs: AND IN REGARD thereof,

I,

I the said Nicholas Hyde do further *Order, award and adjudge*, that the said William Snigge and his Heirs and Assigns, for ever shall hold and enjoy all the Residue of the said Grange and Farm of Barton (except the said West Furlong or West Field) in Severalty, free and discharged of all Common and Claim and Pretence of Common to be had or made by the Mayor, Aldermen and Citizens of Bath or any the particular Burgessees of the said City, AND I DO also *Order, Award and adjudge* that the Hedge and Ditch being the bound and Fence that parteth the said West Field or West Furlong, and Kingsmead Furlong being still Part of the said Grange shall be & continue the Hedge and Ditch of the said William Snigge, And shall from Time to Time be made, kept and maintained by the said William Snigge, his Heirs and Assigns, Owners of the said Kingsmead Furlong, AND I DO further Order, award, & adjudge that the said several Grounds called West Field or West Furlong, shall for ever hereafter be called by the Name of Bath Common & shall be used for ever as a Common for the Citizens & free Burgessees of Bath inhabiting in the said City; And the same shall be ordered and governed, hayned, freethed, stocked, stinted & husbanded according to Orders and Constitutions to be made and established by the Mayor and Common Council
of

of the said City, always *with this Provision, that the same Lands or any Part thereof be not at any Time converted to the private Profit of any in particular, but of the Burgeſſes in general* And that every free Burgeſſ inhabiting in the ſaid City ſhall be permitted to have and take like Comodity thereof one as another, And to the End that the Premises may be hereafter enjoyed according to this preſent Order and Award, I the ſaid Nicholas Hyde, do further Order, Award and adjudge that the ſaid Mayor, Aldermen, and Citizens, of Bath ſhall at all Times hereafter under their Corporation Seal make ſuch Release and diſcharge of all ſuch Common and Pretence of Common which they or any the Citizens and Burgeſſes of Bath do or may challenge or demand, in or out of the ſaid Grange of Barton, and every Part thereof (other than the ſaid Weſt Field or Weſt Furlong) to the ſaid William Snigge, his Heirs and Aſſigns, Owners of the ſaid Grange; As by the ſaid William Snigge or his Heirs ſhall be required, at the Coſt and Charges in the Law of the ſaid William Snigge, his Heirs, and Aſſigns, And I the ſaid Nicholas Hyde, do further Order, award, and adjudge that the ſaid William Snigge & his Heirs ſhall upon requeſt to him or them made by the ſaid Mayor, Aldermen, and Citizens of Bath, or their Council, learned in the Law make a Feoffment or any other Aſſurance that ſhall
be

be required of the said West Field, or West Furlong, and Premises formerly awarded to the said Mayor, Aldermen and Citizens, to James Galley of Bath, Gentleman, the Remainder thereof to Richard Gay, William Chapman the Younger, Mathew Rundell, all of Bath aforesaid, Gentlemen, and Marke Dalamy, Clothier, and their Heirs, To the Use of the said James Galley, for his Life and after to the Use of the said Richard Gay, William Chapman, Mathew Rundell, and Marke Dalamy, and their Heirs for ever, rendering yearly Forty Shillings Rent by two Payments, that is, Michaelmas and the annunciation with a Clause of Distress for non Payment thereof And that a Writ of Entry sur disseizin in le post shall be brought against the said James Galley, being so made Tenant of the Freehold of the Premises by some person to be appointed by the said Mayor, Aldermen, & Citizens of Bath or their learned Counsel, which said James Galley shall vouch the said William Snigge or his Heirs to warrant who shall appear & vouch the Common Vouchee that so a Common Recovery may be had thereof which said common recovery and all other Assurances thereof to be had, shall be to the Use of the said Richard Gay, William Chapman, Mathew Rundell, Marke Dalamy & their Heirs upon Trust and Confidence for the good of the Mayor, Aldermen, Citizens and Burgeses aforesaid, and to be used and employed as aforesaid,

said, And the same Land and the Interest thereof to remain in Feoffees Hands until the same may be by lawful Licence of the King's Majesty, settled upon the Mayor, Aldermen and Citizens of Bath, to the uses aforesaid, And whereas the said Robert Chambers is in Possession of one of the said Closes containing Five Acres by Estimation, and ought to have the same for divers Years, determinable upon the Lives of himself, Joan his Wife and Humphrey his Brother, paying for that and other Ground to the said William Snigge the yearly Rent of Ten Shillings, I do further Order, adjudge and Award that the said Robert Chambers shall enjoy the same free from Common during the Time mentioned in his said Lease without paying any Part of his Rent to the said Mayor, Aldermen and Citizens or to the said Feoffees, but shall pay the same wholly to the said William Snigge and his Heirs, without Apportionment, And the Counterpart of the Leases heretofore made by Sir George Snigge unto the said Thomas Fisher and Edward Shepherd of the other four Closes above mentioned and the Bonds for Performance of the Covenants thereof shall be delivered by the said William Snigge to the Mayor of the City of Bath, And the Rents reserved upon the said Two Leases being in the whole Twenty Three Pounds Nineteen

Nineteen Shillings and Eight Pence and two Couple of Capons shall be paid hereafter to the Mayor, Aldermen and Citizens of Bath, or to the said Feoffees to be employed as the Profits of the said Lands are formerly directed to be employed. And during the Continuance of the said two last mentioned Leases the Burgeses of the said City shall not be excluded to use such Common in those Four particular Closes, as lawfully they might use before this present Award made, In Witness whereof unto three Parts of this present Indenture, I the said Nicholas Hyde, have set my Hand and Seal, whereof the one Part I have annexed unto the Commission above mentioned and returned the same into the High Court of Chancery. The second Part I have delivered to the Mayor of the said City, and the third Part I have delivered to the said William Snigge, even the Day and Year First above written.

NI. HYDE.



*Sealed, delivered and published,
the Day and Year within written*

in the Presence of

WILLIAM YONGE
ROBT CHAMBERS
HENRY WATKINS
ALBY MUSTON.



